

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PUGET SOUND SURGICAL CENTER P.S.

Plaintiff,

vs.

AETNA LIFE INSURANCE COMPANY,  
AETNA, INC., AMTRAK HEALTH CARE  
PLAN, ANCHORAGE SCHOOL DISTRICT  
ACTIVE EMPLOYEE OPEN CHOICE PPO  
MEDICAL PLAN, BECHTEL JACOBS  
COMPANY LLC HEALTH AND WELFARE  
PLAN, STATE OF ALASKA ALASKACARE  
EMPLOYEE HEALTH PLAN, BANK OF  
AMERICA HEALTH CARE PLAN,  
NORDSTROM, INC. CLASSIC PLAN,  
STARBUCKS HEALTH CARE PLAN,  
COSTCO WHOLESALE HEALTH PLAN,  
SOUND HEALTH AND WELLNESS TRUST  
PLAN, WESTCO HEALTH PLAN,  
LOCKHEED MARTIN CORPORATION  
TOTAL HEALTH PLAN, and ADOBE  
SYSTEMS, INC. GROUP WELFARE PLAN

Defendants.

NO. 2:17-cv-01190-JLR

STIPULATED MOTION AND  
~~PROPOSED~~ ORDER TO CONTINUE  
DISCOVERY CUT-OFF DEADLINE

NOTED ON MOTION CALENDAR:

MARCH 7, 2019

**I. STIPULATION**

The parties to this action, by and through their undersigned counsel of record, hereby jointly request an extension of the discovery related deadlines. The parties, do not seek a continuance of the trial date or trial-related deadlines. The parties have exceptional good cause to

**STIPULATED MOTION AND [PROPOSED] ORDER  
TO CONTINUE DISCOVERY CUT-OFF DEADLINE -1**

**GORDON REES SCULLY  
MANSUKHANI, LLP**  
701 5th Avenue, Suite 2100  
Seattle, WA 98104  
Telephone: (206) 695-5115

1 request relief from the current discovery deadline because the parties, after already conducting  
2 substantial written discovery and exchanging nearly 15,000 documents, agree that a private  
3 mediation is now necessary to see if the parties can resolve the dispute informally before  
4 completing costly depositions that will require travel across the entire country. The parties  
5 explain in more detail below:

6 1. Plaintiff Puget Sound Surgical Center filed this action against Aetna Life  
7 Insurance Company and twelve named health plans as defendants. Plaintiff's First Amended  
8 Complaint seeks additional payment for medical services rendered in connection with bariatric  
9 weight loss surgery, among other procedures. (Dkt. 1 and 83). Plaintiff produced claim  
10 spreadsheets and documents identifying the underlying claims for health benefits at issue in this  
11 matter. The materials Plaintiff produced identify 688 underlying claims involving 65 different  
12 health plans. In total, Plaintiff produced 1,165 pages of documents.

13 2. Upon receipt of the Plaintiff's documents and spreadsheets, Aetna promptly  
14 began the process of gathering the applicable health benefit plan documents and claim file  
15 materials for the 688 underlying claims at issue. Due to the large number of claims and sensitive  
16 nature of the information contained the documents, this process took far longer than originally  
17 anticipated and ultimately lead to the parties having to request a trial continuance. (Dkt. 75 and  
18 79.)

19 3. Ultimately, Aetna produced more than 12,000 documents to date. These  
20 documents produced were reviewed for relevance, privilege, and ensuring that all HIPAA and  
21 personal health information was redacted. Aetna is in the process of gathering additional  
22 documents and will be producing those as soon as possible. Aetna anticipates producing several  
23 thousand more plan related documents.

24 4. Plaintiff propounded Interrogatories, Requests for Production, and Requests for  
25 Admission on Aetna as well as each plan defendant. Aetna has also propounded Interrogatories,  
26

1 Requests for Admission, and Requests for Production. Generally, the written discovery seeks  
 2 information related to the 688 underlying claims and the plans involved in this litigation, which  
 3 makes responding to the requests a very time-consuming task. Aetna has responded to the  
 4 written discovery and the parties have met and conferred regarding those responses. Plaintiff  
 5 anticipates that substantial time will be spent responding to Aetna's discovery as well.

6 5. The parties have been working together cooperatively to conduct the discovery in  
 7 this matter as efficiently as is practicable. This includes working together to schedule  
 8 depositions for representatives of Aetna and Puget Sound Surgical Center. These depositions are  
 9 going to take place all over the United States and involves one witness who is currently in India.  
 10 The parties have discussed dates for the depositions and during that process agreed that before  
 11 substantial time and money is expended taking depositions in Hartford, New York, Seattle,  
 12 among other locations, mediation should be conducted to see if an informal resolution can be  
 13 reached.

14 6. The parties have agreed to mediate this matter in the week of April 27 through  
 15 May 3, 2019 and are in the process of selecting a mediator. In an effort to conserve resources  
 16 that may not need to be expended to finish discovery and depositions by the current discovery  
 17 deadline of April 1, the parties request that the Court continue the following discovery related  
 18 deadlines to the following dates:

Deadline	Current Date	New Date Requested
Disclosure of expert testimony under FRC 26(a)(2)	March 20, 2019	May 30, 2019
All motions related to discovery must be filed by (see LCR 7(d))	April 19, 2019	June 11, 2019
Discovery completed by	April 1, 2019	June 7, 2019

26  
 STIPULATED MOTION AND [PROPOSED] ORDER  
 TO CONTINUE DISCOVERY CUT-OFF DEADLINE -3

GORDON REES SCULLY  
 MANSUKHANI, LLP  
 701 5th Avenue, Suite 2100  
 Seattle, WA 98104  
 Telephone: (206) 695-5115

1  
2  
3 7. Under these unique circumstances, where a large number of claims are at issue, a  
4 tremendous amount of information has already been exchanged, and the parties would like to  
5 mediate before incurring additional expenses to complete discovery and take depositions, good  
6 cause exists for an extension of the discovery cut-off deadlines as requested above. Additionally,  
7 the parties believe that they can be ready for trial as set for September 16, 2019 if they are not  
8 able to resolve the case informally in the agreed to mediation.

9 8. The parties have made this request in a timely manner, as the discovery cut-off is  
10 not until April 1, 2019.

11 Respectfully submitted this 8<sup>th</sup> day of March, 2019.

12 AXELROD LLP

13 By /s/ Robert J. Axelrod

14 Robert J. Axelrod, *Pro Hac Vice*  
15 800 Third Ave., Suite, 2800  
16 New York, NY 10022  
17 Tel.: 646.448.5263  
[rjaxelrod@axelrodllp.com](mailto:rjaxelrod@axelrodllp.com)

18 YOSHIDA LAW FIRM PLLC

19 By /s/ D.K. Yoshida

20 D.K. Yoshida, WSBA #17365  
21 2025 First Avenue, Suite 1200  
22 Seattle, WA 98121  
23 Tel.: 206.456.7900  
24 Fax: 206.456.7901  
[dyoshida@yoshidalawfirm.com](mailto:dyoshida@yoshidalawfirm.com)

25 **Attorneys for Plaintiff**  
26 **Puget Sound Surgical Center P.S.**

**STIPULATED MOTION AND [PROPOSED] ORDER  
TO CONTINUE DISCOVERY CUT-OFF DEADLINE -4**

**GORDON REES SCULLY  
MANSUKHANI, LLP**  
701 5th Avenue, Suite 2100  
Seattle, WA 98104  
Telephone: (206) 695-5115

1 SEYFARTH SHAW LLP

2 By /s/ Eric McDonough

3 Eric McDonough, *Pro Hac Vice*

4 2029 Century Park East, Suite 3500

5 Los Angeles, CA 90067-3021

6 Tel.: 310.201.5200

7 emcdonough@seyfarth.com

8 JENSEN MORSE BAKER PLLC

9 By /s/ Sarah E. Swale

10 Steven Douglas Jensen, WSBA #26495

11 Sarah E. Swale, WSBA #29626

12 1809 Seventh Avenue, Suite 410

13 Seattle, WA 98101

14 Tel.: 206.682.1550

15 sarah.swale@jmblawyers.com

16 steve.jensen@jmblawyers.com

17 **Attorneys for Defendant**

18 **Sound Health & Wellness Trust Plan**

19 GORDON REES SCULLY MANSUKHANI, LLP

20 By /s/ Sarah Turner

21 Sarah Turner, WSBA #37748

22 701 Fifth Avenue, Suite 2100

23 Seattle, WA 98104

24 Tel.: 206.695.5100

25 sturner@grsm.com

26 **Attorneys for Defendants**

**Aetna Life Insurance Company; Aetna, Inc.;**

**Bechtel Jacobs Company LLC Health and**

**Welfare Plan; Amtrak Health Care Plan;**

**America Health Care Plan; Nordstrom, Inc.**

**Classic Plan; Starbucks Health Care Plan;**

**Costco Wholesale Health Plan**

STIPULATED MOTION AND [PROPOSED] ORDER  
TO CONTINUE DISCOVERY CUT-OFF DEADLINE -5

GORDON REES SCULLY  
MANSUKHANI, LLP

701 5th Avenue, Suite 2100

Seattle, WA 98104

Telephone: (206) 695-5115

II. ORDER

The Court hereby finds that good cause exists to grant the requested relief and that an extension of the discovery cut-off and expert disclosure deadlines are necessary due to the exceptional circumstances of agreeing to conduct mediation before proceeding with expensive discovery that may not prove necessary. The discovery cut-off deadline is hereby extended and the case schedule set forth in the Court's August 14, 2018 Order is hereby amended as follows:

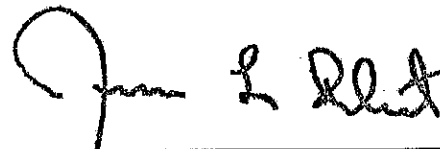
Disclosure of expert testimony under FRC 26(a)(2) May 30, 2019

All motions related to discovery must be filed by (see LCR 7(d)) June 11, 2019

Discovery completed by June 7, 2019

The remaining trial and pre-trial deadlines shall remain the same as set forth in the Court's August 14, 2018 Order. *The parties should understand that the court is disinclined to extend any other case deadlines.*  
**IT IS SO ORDERED.**

DATED: March 8, 2019.



Honorable James L. Robart  
United States District Court Judge